

HIGH COURT OF CHHATTISGARH, BILASPUR
Second Appeal No. 443 of 2004

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

APPELLANTS
PLAINTIFFS

- : 1. Khatoon Bee, widow of late Ramjan Beg, Aged about 60 years,
 2. Inayat Beg, S/o late Ramjan Beg, aged about 40 years,
 3. Amin Beg, S/o late Ramjan Beg, aged about 35 years,
 4. Ishak Beg, S/o late Ramjan Beg, aged about 33 years,
 5. Sayara Bano D/o late Ramjan Beg, aged about 23 years,
 Plaintiffs no.1 to 5 R/o Risaipara, Dhamtari, Tahsil and District-Dhamtari, C.G.
 6. Mahmuda Begum wife Alauddin, aged about 45 years, R/o Kota, Rampur, District-Raipur (C.G.)
 7. Hamida Begum wife of Nurali, aged about 38 years, R/o Gariyabandh, Tahsil-Gariyabandh, District-Raipur (C.G.)
 8. Shakila Bano wife of Mehaboob Khan, aged about 30 years, R/o Aamdi, Parsada, Abhanpur, District-Raipur (C.G.)

VERSUS

RESPONDENTS
DEFENDANTS

- : 1) Badrunnisha widow of Abid Ali, aged about 60 years,
 : 2. Hasan Ali S/o Abid Ali, aged about 30 years,
 : 3. Abrar Ali S/o Abid Ali, aged about 28 years,
 : 4. Shahista D/o Abid Ali, aged about 25 years,
 : 5. Bakarunnisha D/o Abid Ali, aged about 22 years,
 All R/o Itwari Bazar, Dhamtari, District-Dhamtari, C.G.

Present:-

Shri Vishnu Koshta, Counsel for the appellants.

Shri R.S.Patel, counsel for the respondents.

ORAL ORDER

(Passed on 14.3.2007)

The following oral order of the Court was passed by Dilip Raosaheb Deshmukh, J.

Heard on admission.

(2) The appellant is aggrieved by the judgment and decree dated 15.05.2004 passed by the Additional District Judge, Dhamtari in Civil Appeal No.14-A/2003 whereby the judgment and decree dated 28.02.2003 passed by the Ist Civil Judge Class-I, Dhamtari in Civil Suit No.14-A/1997 dismissing the plaintiff's suit was affirmed.

(3) It is not in dispute that the plaintiff is a tenant in the house shown by letters "A", "B", "C" and "D" in the map annexed to the plaint. The plaintiff claimed ownership of the land adjacent to the house mentioned above and marked as by words "Sa", "Da" "E" "Fa", "Ka" and "Kha" in the plaint map on the ground that the adjacent land was purchased by the plaintiff from Abdul Habib @ Usman Abba by an unregistered sale deed dated 01-05-1949 for a sum of Rs.50/- The Defendants/respondents herein resisted the suit on the ground that sale deed dated 01.05.1949 was bogus and led evidence, oral as well as documentary to prove their title over the said land in question.

(4) Both the Courts below have recorded a concurrent finding of fact that the sale deed alleged to have been executed by Abdul Habib on 01-05-1949 was a bogus document which was got executed in

collusion with Sardar Khan. This finding is based on the following grounds:-

(A) That in an earlier proceeding before the Rent Controlling Authority, the plaintiff had mentioned that he had purchased the adjacent land from one Girdhari Lal Mishra.

(B) That Sardar Khan, the attesting witness was a minor on the alleged date of execution of the document dated 01-05-1949 and lastly,

(C) On the ground that the defendants had led overwhelming evidence oral as well as documentary to prove their ownership on the disputed adjacent land as shown above.

(5) Both the Courts below have also recorded a concurrent finding that the plaintiff's suit was barred by limitation under Article-58 of the Limitation Act since it was not filed within 3 years when the right to sue first accrued to the plaintiff to obtain the declaratory relief.

(6) Having heard Shri Vishnu Koshta, learned counsel for the appellants, so far as the finding recorded by both the Courts below that the suit was barred by limitation is concerned it is not in conformity with law because cause of action arose in favour of the plaintiff only after final order was passed by the Rent Controlling Authority. However, the appellate Court rightly concurred with the finding recorded by the Court below that the sale deed dated 01-05-1949 is a fictitious document not conferring any valid title to the plaintiff. Such a finding is based on proper appreciation of the evidence oral as well as documentary and is also based on sound reasoning. Since the aforesaid finding is purely a finding of fact, in my considered opinion, no substantial question of law arises for determination in this appeal. Even if the plaintiff's suit was held to be

within limitation, the finding that the sale deed dated 01-05-1949 is fictitious, being impeccable and also being a pure finding of fact, no substantial question of law arises for determination in this appeal.

(7) Consequently, this appeal is dismissed at the stage of admission.
No order as to costs.

(8) In view of above, I.A.No.21/2005 which is an application for taking rent deposit receipt on record and M.(C.)P.No.171/2007 which is an application for vacating stay stand disposed of.

Tumane

Sd/-
DILIP RAOSAHEB DESHMUKH
Judge